

Request for Qualifications: The Lummi Nation is requesting statements of qualifications and personnel and related costs from qualified consulting firms to provide third party vessel traffic safety assessment review services. Please contact Jeremy Freimund (360-384-2212 or jeremyf@lummi-nsn.gov) for further information. Women and/or minority owned businesses are encouraged to apply. All proposals must be received by 12:00 p.m. on July 16, 2012.

**REQUEST FOR QUALIFICATIONS
THIRD PARTY VESSEL TRAFFIC SAFETY ASSESSMENT REVIEW
SERVICES**

Lummi Indian Business Council (Lummi Nation)
Lummi Indian Reservation, Whatcom County Area, Washington State
Proposals Due: 12:00 p.m. (noon) on July 16, 2012

Background: SSA Marine is proposing to construct a bulk goods export facility known as the Gateway Pacific Terminal (GPT) Project within the area zoned by Whatcom County for Heavy Impact Industrial use at Cherry Point in Whatcom County, Washington. This location is immediately adjacent to the Lummi Indian Reservation and the Usual and Accustomed fishing grounds of the Lummi People. Details about the proposed GPT project can be obtained from the numerous project related websites that have emerged since permit applications were submitted during February 2011 (see for example, <http://lnnr.lummi-nsn.gov/LummiWebsite/Website.php?PageID=236>).

The Lummi Nation is a federally recognized Tribe of Indians; the Lummi Indian Business Council (LIBC) is the governing body of the Lummi Nation. The LIBC provides social, economic, and political services for the community members of the Lummi Nation. The LIBC is administratively organized into a number of departments including the Natural Resources Department, the Planning Department, the Office of the Reservation Attorney, and the Lummi Commercial Company. The mission of the Lummi Natural Resources Department is to enhance, manage, and protect the Lummi Nation's natural resources into perpetuity for the benefit of the Lummi people in accordance with the policy and procedures of the Lummi Nation. The Lummi Natural Resources Department (LNR) will manage the Third Party Vessel Traffic Safety Assessment Review Services contract on behalf of the Cherry Point Team appointed by the LIBC to evaluate the proposed GPT Project. Additional information about the Lummi Nation and the Lummi Natural Resources Department can be found through the Lummi Nation's website (www.lummi-nsn.gov).

The Glosten Associates (Glosten) consulting firm was selected to perform the Gateway Pacific Terminal Vessel Traffic and Risk Assessment Study for the project. The final report prepared by Glosten will be made available as a resource to CH2M Hill, the environmental consulting firm selected in May 2012 by the co-lead agencies to develop the Environmental Impact Study (EIS) for the proposed Gateway Pacific Terminal project.

The scope of work for Glosten was developed jointly by the Lummi Nation, Washington Department of Ecology, and SSA Marine during the Fall 2011 and is Attachment 1 to this RFQ. The Glosten scope of work anticipates interaction with a third party vessel traffic safety assessment review contractor hired by the Lummi Nation. The contract with Glosten Associates was recently executed and a project "kick-off" meeting was conducted on June 19, 2012. The purpose of this Request for Qualifications (RFQ) is to

identify a consultant who will provide the third party review services for the Lummi Nation.

The Statements of Qualifications received in response to this RFQ will be used as a basis for the Lummi Nation's contractor selection. The first task in the scope of work for Glosten is to develop a detailed work plan. This detailed work plan will be used as the basis for developing a scope of work and contract for the selected consultant firm. The selected contractor will not be conducting a separate, independent Vessel Traffic and Risk Assessment Study for the project. The selected contractor will provide peer review of the work being performed by Glosten including a review of the data and assumptions used in the Glosten analysis and provide an independent opinion to the Lummi Nation on the accuracy and reliability of the analysis methodology, results, and conclusions.

For consideration, two (2) copies of the Statement of Qualifications and personnel and related costs must be submitted to the Lummi Water Resources Division, Attention: Jeremy Freimund, 2616 Kwina Road, Bellingham, WA 98226 prior to 12:00 p.m. on July 16, 2012.

Required Conditions of Service

1. The selected Contractor(s) shall furnish the Lummi Indian Business Council (LIBC) with detailed billing for all activities completed relating to the Scope of Work that will be developed once the detailed work plan under preparation by Glosten is available.
2. The Contractor(s) shall not enter into subcontracts for any of the work under this contract without obtaining prior written approval from the LIBC.
3. Any modifications to the resulting contract including any increase in the amount of compensation or to the time required for the contract's performance or any changes in the description of work must be incorporated in a written approved format amendment or change order to the resultant contract.
4. The Contractor(s) shall be an independent contractor and not an employee.
5. The Contractor(s) shall be responsible for all taxes, social security payment, state disability insurance and other similar payments both for Contractor and Contractor's employees. The Lummi Indian Business Council will be filing a 1099 with the IRS at the end of the fiscal year under the official name of your business.
6. The Contractor(s) shall hold LIBC and its officers, agents and employees, harmless from all suits, claims or liabilities of any nature, including costs and expenses, for or on account of injuries or damages sustained by any persons or property resulting in whole or in part from activities of the Contractor(s), its agents or employees pursuant to this contract, or on account of any unpaid wages, materials or other remuneration for services.
7. The Contractor(s) must provide proof of general liability or professional liability insurance naming Lummi Indian Business Council as an additional insured in the amount not less than \$1,000,000 per claim. The insurance shall be with insurers with a Best's rating of at least VII. Certificates of insurance, including all of these requirements, are required prior to signature of the contract.

Statement of Qualifications Format and Content

In submitting a Statement of Qualifications (SOQ), each firm acknowledges that the Lummi Nation shall not be liable to any person, company, or representative for any costs incurred therein or in connection with costs incurred by any firm in anticipation of Lummi Nation action approving or disapproving any agreement. The Lummi Nation may accept or reject any SOQ or proposed agreement without limitation. Nothing in the Request for Qualifications or in subsequent negotiations creates any vested rights in any person, company or representative.

Statements of Qualifications that do not address the items listed in this section will be considered incomplete and will be deemed non-responsive by the Lummi Nation.

- A. Letter of Transmittal signed by Authorized Representative that summarizes the firms SOQ (1 page).
- B. Narrative
 - a. Brief resumes of the “Principal In-Charge” and any key technical personnel to be assigned to this project. Discuss the experience of these person(s) and relate that experience to this project. Include what portion of this contract would be assigned to each person (maximum 4 pages).
 - b. Hourly rates and other charges (e.g., travel, equipment usage fees)
- C. Prior work
 - a. A summary of work from previous similar projects completed by your firm shall be included with the SOQ along with contact information for the project clients. (maximum 4 pages)
- D. References
 - a. Provide names and telephone numbers of three references that will attest to your firm’s ability to complete this project on time and within budget.
- E. Confirmation of Business Organization
 - a. On the last page of the proposal, the proposer shall identify the business organization under which it operates. Partnerships and joint ventures will list each member’s name, address, business license, tax ID, telephone and fax numbers on a separate sheet of paper attached to the proposal.

Evaluation Criteria

The contract award will be based on the respondent receiving the most points based on the following criteria and the results from a pre-selection interview:

1. Qualifications (education and experience) of the consultant(s) – particularly with respect to U.S. and Canadian Coast Guard regulations, the inland waters of Washington State and British Columbia (Canada), and bulk goods transport (Maximum 30 Points Available)
2. Familiarity with “Indian Country” in general, Lummi Nation Treaty Rights, and commercial fishing within the inland waters of Washington (Maximum 15 Points Available)

3. Past Performances/References. (Maximum 20 Points Available)
4. Budget (Maximum 15 Points Available)
5. Women and/or minority owned businesses (Maximum 10 points Available)
6. Indian Preference (Maximum 10 points Available)

Native Preference will apply to this invitation and all Native Americans will be afforded full opportunity to submit bids in consideration of the award.

Minority-owned business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, religion or national origin in consideration for an award.

Selection Process

A selection committee comprised of at least four staff members of the Lummi Nation's Cherry Point Team will review the submitted proposals and rank them based on the identified criteria. Interviews of the top scoring firms will be performed. The firm with the highest cumulative score will be invited to enter into contract negotiations. If an agreement cannot be reached, the second highest scored firm may be contacted for negotiations. The Lummi Nation reserves the right to award the contract to the highest ranked firm without further discussion. The Lummi Nation reserves the right to reject all proposals received. If interviews are conducted, they will occur on or around **July 26 and/or 27, 2012**. If interviews are conducted, selected firms will be contacted with specific information as to date, location, and time of the interviews.

Submittal

Statements of Qualifications signed by authorized agents may be hand-delivered, sent by courier, or transmitted electronically via email (must be signed). **Two (2) copies of the SOQ must be received by the Lummi Water Resources Division, 2616 Kwina Road, Bellingham, WA prior to 12:00 p.m. on July 16, 2012.**

Submittal Address:

Attention: Jeremy Freimund
Lummi Water Resources Division
2616 Kwina Road
Bellingham, WA 98226
(360) 384-2212 Office
(360) 384-4737 Fax

Hand Delivery:

Attention: Jeremy Freimund
Lummi Natural Resources Department
2616 Kwina Road
Bellingham, WA 98226

Inquiries regarding the RFQ or submittals can be directed to Jeremy Freimund (360-384-2212 or Jeremyf@lummi-nsn.gov) or the address listed above.

ATTACHMENT 1

Scope of Work and Discussion for Gateway Pacific Terminal Vessel Traffic and Risk Assessment Study 2 December 2011

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Introduction

This Scope of Work (SOW) for the GPT Vessel Traffic and Risk Assessment (VTS) incorporates the Issues and Concerns presented by the Lummi Nation and additional requirements from Appendix G of the GPT Settlement Agreement. Not all specific items of scope requested by the Lummi Nation or included in Appendix G have been included in this draft revision. They may be addressed in separate studies; as elements of the EIS/Permitting process; or a direct exchange of information between the Lummi Nation and PIT.

Assumptions

The VTS scope of work assumes the following:

Vessel Traffic – The GPT will introduce a new source of vessel traffic to the regional traffic flow. Therefore the study is designed to predict and analyze the risk posed by vessels bound to or departing from the GPT (GPT-calling vessels). The study will include tugs assisting with docking and undocking maneuvers at GPT in its definition of GPT-calling vessels. The study will include the potential interactions (accidents) between GPT-calling vessels and all other types of vessels presently operating in the region. It will also analyze potential future traffic that may be operating in the region (cumulative impacts). It would also include single vessel accidents (groundings and allisions) and impacts to tribal fishing activities from GPT calling vessels.

It is not the intent of the GPT Vessel Traffic Study to evaluate the general risks of any and all potential future vessel movements throughout the region but rather to focus on the risks posed by the new GPT traffic.

Geographic Study Area – The geographic scope of the VTS or study area will include the designated Vessel Transit Lanes and the Local Maneuvering area as follows:

Vessel Transit Lanes - Commercial vessels of the size and type calling at the GPT will be required to operate within the United States Coast Guard's (USCG) designated vessel traffic lanes (VTS transit lanes) until they reach the vicinity of the GPT where they will maneuver to moor at the GPT wharf or move to a local anchorage. Therefore the "geographic study area" for the vessel traffic study would

consist of the USCG VTS transit lanes to be used by GPT-calling vessels, the maneuvering area adjacent to the terminal, the local anchorage areas, and the local transit routes for tugs that are required to assist in maneuvering and mooring. The study would not analyze the risk or impacts of vessel movements outside the above listed areas. The boundaries of the Vessel Transit Lanes are shown on Figure 1 - Study Area.

Local Maneuvering Area – The local maneuvering area initially considered in the VTS will be that area through which GPT bound vessels transit from the point of departure from the Transit Lanes to the GPT terminal, the routes taken by assist tugs from Bellingham, and the local anchorages at Alden Bank and Vendovi. The boundaries of the Local Maneuvering Area are shown in grey shading on Figure 1 - Study Area.

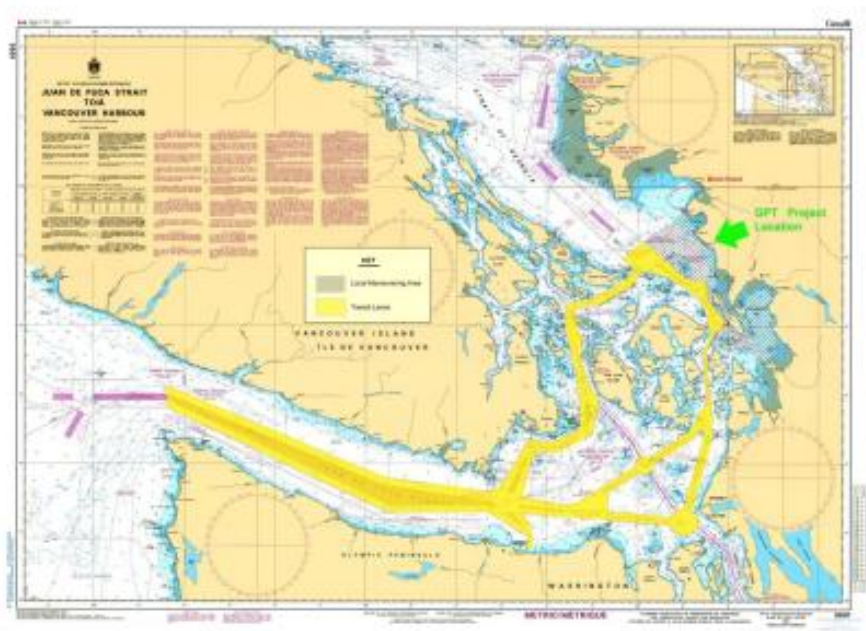


Figure 1 - Study Area

Original Scope of Work, Quoted from RFP Issued March 31, 2011

The bidder shall prepare a Vessel Traffic and Risk Study that meets the following objectives:

- 1. Determines most probable routing and use of temporary moorages for vessels calling at the Terminal.*
- 2. Analyzes projected Gateway Pacific Terminal traffic volumes at initial operation and at full capacity based at the Gateway Pacific Terminal.*
- 3. Determines the risk of accident involving vessels call at the Gateway Pacific Terminal that may result in contaminant release. Accidents shall include collision, allision, power groundings and drift groundings. In evaluating these risks the study*

should consider all vessel traffic and reasonably foreseeable increases and decreases in vessel traffic along the entire pathway followed by vessels between Cherry Point and Buoy J, including but not limited to vessels calling in British Columbia, and vessels calling at the proposed Gateway Pacific Terminal Facility, as well as the BP Cherry Point Refinery, Conoco Phillips Ferndale Refinery, Alcoa-Intalco Works, and any other reasonably foreseeable future marine terminal facilities in the Cherry Point area.

4. *Determines the most likely geographic location where accidents may occur.*
5. *Determines the potential size of a contaminant release from an accident.*
6. *Identifies traffic management, anchoring, vessel mooring and servicing, spill containment and cleanup, and any other relevant protocols to reduce or minimize identified risks.*

New Scope of Work from “Appendix G”

7. Review the adequacy of existing designated anchorages along the protected portion of the route and provide recommendations for risk reduction, such as enhancements to anchorage regulations, and establishment of additional anchorage capacity. The USCG Captain of the Port and the current Harbor Safety Plan will be relied upon as an authoritative source of anchorage capacity. This effort shall include collection and reporting of anecdotal data from pilots, mariners and Coast Guard incident reports (if available) on incidents of dragged anchors and shall consider seasonal prevailing weather to assess trends and patterns, and any facility operational constraints affecting vessel movements within the local maneuvering area.¹

Comment: New scope not previously considered. It is not known whether data exist that could be used to undertake a statistical analysis of anchoring problems. Note: The scope will specifically exclude recommendations for siting of new anchorages.

8. Provide an overview of current traffic separation and management schemes in force on the approaches to GPT and recommendations for alternative traffic control mechanisms for risk reduction. In conjunction with task 7, provide qualitative,

¹ To address “Appendix G” questions:

- *Would changes to existing anchorage regulations ... contribute substantially to reducing the risk of groundings or collisions? [Page 2, under Traffic Safety and Traffic Management Analysis]*
- *What are the holding characteristics of existing anchorage grounds and what has been the past vessel experience on these grounds under different weather conditions? [Page 3, under Traffic Safety and Traffic Management Analysis]*
- *Will special anchorage rules or procedures be instituted to minimize risk of drift groundings or collisions in and around the anchorages? If not, why not? If yes, what will those measures be? [Page 2, under Traffic Safety and Traffic Management Analysis]*
- *What special navigational cargo loading, or anchorage management problems will be created by stronger than normal currents or winds (particularly during strong North Westerly winds produced by winter storms)? [Page 2, under Traffic Safety and Traffic Management Analysis]*

relative assessment of the potential effectiveness of measures proposed in counteracting risks posed by increased traffic. ²

Comment: This study can evaluate alternative schemes for vessel traffic management. However any such recommended protocols would need to be implemented through regulatory action involving multiple agencies of the federal, state, and local government. The study will specifically exclude discussion or opinion on the regulatory process or requirements. The study will limit discussion on alternative traffic control measures to the likelihood of reducing casualty risks rather than the achievement of “minimum risk.”

9. Provide an estimate of the additional annual demand for fuel oil in Puget Sound that could be caused by vessels calling at GPT. Summarize the likely locations where such transfers could occur from information on historical bunkering activity provided by Washington State Department of Ecology.³

Comment: As written, the proposed scope item would provide a statistic that can be used by the state to determine the potential effect of GPT presence on bunkering activities in Puget Sound. It will be presumed that future increases in bunkering activities will occur at historically active locations because it remains difficult to predict the bunkering behavior of bulk carriers serving the spot markets, particularly when considering the prohibition on bunkering at the terminal.

10. Predict the potential size and geographic impact of a contaminant release from a bunkering or cargo transfer accident. Consequences of a spill during bunkering operations may be moderated if it is reasonable to assume that transfer operations can be effectively boomed off prior to commencing operations.⁴

Comment: Expanded scope. Within the capability of the Glostien team.

² To address “Appendix G” questions:

- *What additional or revised U.S. Coast Guard vessel traffic management protocols will be required to minimize the risk of collisions or groundings during peak traffic periods? Should these protocols be independent of cargoes or should they be cargo specific? [Page 2, under Traffic Safety and Traffic Management Analysis]*
- *Will special anchorage rules or procedures be instituted to minimize risk of drift groundings or collisions in and around the anchorages? If not, why not? If yes, what will those measures be? [Page 3, under Traffic Safety and Traffic Management Analysis]*

³ To address “Appendix G” question:

- *Will vessels waiting to berth at GPT bunker elsewhere in Puget Sound or the Strait of Juan de Fuca? If yes, what is the anticipated increase in bunker volume and frequency? [Page 5, under Spill Risk Analysis]*

⁴ To address “Appendix G” question:

- *The probability and impact of transfer related spills during bunkering or cargo transfer operations should be estimated. [Page 5, under Spill Risk Analysis]*

**New Scope of Work from Lummi Issues/Concerns summary document,
October 20, 2011**

11. Make key study team members available for orientation and review materials provided by Lummi Nation on tribal treaty rights to fishing.⁵

Comment: New scope not previously considered. Within the capability of the Glosten Team. However, Glosten neither possesses nor proposes to acquire the expertise to render opinions on whether any proposed terminal activities infringe on tribal treaty rights.

12. Traffic study shall include ships, tug boats, and barges and the Lummi fishing fleet (purse seiners, gill netters, skiffs).⁶

Comment: Expanded scope. To the degree that accurate statistics exist for the movement of smaller vessels, they will be incorporated in the traffic study. The team expects to receive data from the Lummi Natural Resources department regarding the existing fleet size, harvest timing, harvest areas, and volumes.

13. Study shall address impacts of GPT bound vessel traffic on tribal fishing fleet including gear loss, associated Homeland Security exclusion zones, and interference with fishing.⁷ The study shall assess the impact of increased vessel traffic on Lummi treaty rights to fish throughout the Lummi Nation's Usual and Accustomed grounds and stations. The statistical measure of impact shall be the area from which the Lummis are temporarily excluded from fishing multiplied by the expected duration of the temporary exclusion. Any such exclusionary zones will include moving security zones imposed by the Department of Homeland Security around commercial vessels in transit to and from GPT. In addition, the study shall assess the impact of increased vessel usage of anchorages on Lummi treaty rights to fish using the same statistical measure: exclusionary area multiplied by duration. Any such exclusionary zones will include security zones imposed by the Department of Homeland Security around commercial vessels at anchor, awaiting transit to or departure from GPT. Exclusionary zones may extend to the entire designated anchorage area, if the study finds that fishers are effectively excluded therefrom whenever the anchorage is occupied, as a matter of custom, practice or regulation.⁸

Comment: New scope not previously considered. This could be included in traffic study, but would require additional expertise from outside the Glosten team. The team expects to

⁵ From Lummi Issues/Concerns, "a. Contractor must be provided background information and orientation about tribal treaty rights to fish."

⁶ From Lummi Issues/Concerns, "b. Vessels considered in the study must include ships, tug boats, and barges and the Lummi fishing fleet (purse seiners, gill netters, skiffs)."

⁷ From Lummi Issues/Concerns, "c. Study must address impacts of vessel traffic on tribal fishing fleet including gear loss, associated Homeland Security exclusion zones, and interference with fishing."

⁸ Addressing Lummi Issues/Concerns, "m. The report must include a section explicitly addressing vessel traffic impacts (including cumulative effects) on Lummi treaty rights to fish throughout the Lummi Nation's Usual and Accustomed grounds and stations."

receive data from the Lummi Natural Resources department regarding current gear loss attributable to existing vessel traffic.

14. Study shall address increased risk of collision between GPT bound vessel traffic and tribal fishing vessels, vessels associated with the other industries along Cherry Point, and vessels from the Port of Vancouver (British Columbia).⁹

Comment: Expanded scope. To the degree that accurate data exist for the movement of smaller vessels, the effect of the presence of smaller vessels on the risk profile for collision will be incorporated in the traffic study. At present, it is not clear whether the data can be parsed to a level that would allow extraction of significant statistics for “classes” of small vessels (e.g. tribal fishing vessels).

15. Study shall report on ballast water management plans associated with cargo operations at GPT and the level of compliance they will achieve with existing and future regulations and international treaties.¹⁰

Comment: New scope not previously considered. The Glosten team has resources available to review any materials provided on ballast water treatment and management practices envisioned at the terminal and can provide an assessment of compliance with current and anticipated state and federal regulations.

16. The Vessel Traffic Study shall assess the impact of GPT bound vessel traffic on traditional cultural properties and underwater archaeology.¹¹ The statistical measures of impact will be:
 - a. the additional energy arriving at the shoreline from the wakes of passing vessels bound for or departing from GPT compared to the total energy at background levels (i.e. without GPT traffic).
 - b. The energy arriving at the shoreline from the most extreme event of passing vessels compared to the extreme event of a winter storm.

Comment: None.

17. In order to make efficient use of time for both study contractor personnel and Lummi tribal fishers, the contractor will provide questions to the Lummi Natural Resources Department Director in writing prior to any meeting with Lummi fishermen. Questions of a global nature seeking fleet wide statistics or information may be answered by the Lummi Natural Resources Department Director without further consultation. The LNR Director will assist with refining any questions seeking

⁹ From Lummi Issues/Concerns, “d. Study must address increased risk of collision with tribal fishing vessels, vessels associated with the other industries along Cherry Point, and vessels from the Port of Vancouver (British Columbia).”

¹⁰ From Lummi Issues/Concerns, “o. Ballast water management”

¹¹ Addressing Lummi Issues/Concerns, “k. The Vessel Traffic Study should address the impacts of increased vessel traffic on traditional cultural properties and underwater archaeology”

information from individual tribal fishers and with arranging meeting(s) with tribal fishers.¹²

Comment: None.

18. The contractor acknowledges that its work products will be subject to peer review by an expert to be identified by the Lummi Nation. The contractor shall make its study plan available to the peer reviewer.¹³ The contractor and the peer reviewer shall jointly prepare a Peer Review Plan that describes the process and its expected impact on schedule and budget. The Peer Review Plan will identify the responsibilities of each party to the other with particular regard to:

- a. Prompt review of submittals by the peer reviewer
- b. Action to be taken by the contractor in response to comments, questions and requests for additional information from the peer reviewer
- c. Protection and non-disclosure of intellectual property and proprietary analytical methods claimed by the contractor

The peer review will be conducted concurrently with the reviews of other parties.

Comment: None.

Items from "Appendix G" considered to be outside the scope of the Traffic Study

- *Would the implementation of new vessel traffic management or vessel anchorage protocols create significant land side traffic management problems?*¹⁴
- *Is there significant land side transportation capacity to handle peak demand associated with feed grain shipments?*¹⁵

Rationale: By definition, this effort is a Vessel Traffic Study. Land-side transportation issues should be handled separately. If land-side infrastructure changes are required, they are included elsewhere in the proponent's project planning.

- *Would ... the creation of new anchorage areas contribute substantially to reducing the risk of groundings or collisions?*¹⁶

¹² Addressing Lummi Issues/Concerns, "i. As part of the information gathering component, the contractor will provide questions to the Lummi Natural Resources Department Director in writing prior to any meeting with Lummi fishermen. The LNR Director will assist with refining those questions and arranging meeting(s) with tribal fishers.

¹³ Attempting to address Lummi Issues/Concerns, "j. Any computer model(s) developed by the contractor must be transferable to a third party (Lummi contractor) with sufficient documentation of data sources, assumptions, calibration procedures and results, and any other necessary information to allow for the Lummi contractor to conduct "what if" scenarios as directed by the Lummi Nation." and "i. The details of the study design and methodology must be provided to the Lummi Nation for review and comment by a third party contractor.

¹⁴ From "Appendix G" page 2, under "Questions raised about vessel traffic and anchorage management"

¹⁵ From "Appendix G" page 2, under "Questions raised about vessel traffic and anchorage management"

Rationale: The issues associated with creation of a new anchorage are regulatory in nature. Opinions or conclusions on the impact of a proposed new anchorage on the overall safety of marine traffic along the specific route would be highly speculative. A very limited review of anchorage capacity will be undertaken as part of Tasks 7 and 8.

Lummi Issues/Concerns considered to be outside the scope of the Traffic Study

1. *Study must identify and recommend safety procedures and equipment improvements that will reduce the risk of collision between vessels associated with the Cherry Point industries (existing and proposed), Port of Vancouver, and the Lummi fishing fleet, non-tribal, and recreational fishers.*

Rationale: To the extent such procedures and equipment modifications can be determined; they will be analyzed as part of the SOW included in item 6. Scope of effort cannot be determined to extend this analysis to vessels not calling at the GPT. Once particular risks are identified, separate studies should be undertaken that include the affected parties on means to reduce risk.

2. *Study must address increased use of general anchorage areas by vessels associated with all of the Cherry Point industries and March Point.*

Rationale: To the extent anchorages are predicted to be used by GPT calling vessels this is already included the SOW (see item 7). To the degree that the traffic forecasts are able to determine trends in use of anchorages by vessels not calling at the GPT, this will be reported but an analysis to predict anchorage use by other vessels is not within the capability of the analysis method proposed.

3. *Study must address the effects and cumulative effects of vessel traffic on marine mammals and fish.*

Rationale: The results of the VTS will provide information on the density and type of traffic within the routes traveled by GPT calling vessels. This information will be used in the analysis of impacts to marine mammals and fish normally included in the DEIS. Undertaking this analysis would require rendering opinions on biological processes. This is outside the expertise of the team selected to prepare the traffic study.

¹⁶ From "Appendix G" page 2, under "Questions raised about vessel traffic and anchorage management"

Lummi Issues/Concerns considered to be contractual issues rather than scope-of-work issues

- 1. The details of the study design and methodology must be provided to the Lummi Nation for review and comment by a third party contractor.*

Comment: Third party review of study design and methodology could affect schedule. Commentary could affect scope. Both must be addressed in the contract language.

- 2. Any computer model(s) developed by the contractor must be transferable to a third party (Lummi contractor) with sufficient documentation of data sources, assumptions, calibration procedures and results, and any other necessary information to allow for the Lummi contractor to conduct "what if" scenarios as directed by the Lummi Nation.*

Comment: The Glosten team expects to utilize proprietary software and databases in its work. It is not clear whether licensing rights can be acquired for or assigned to third parties. The effort required to deliver models with sufficient documentation for unidentified personnel to operate constitutes undefined scope, which is difficult to assess. Furthermore, the Glosten team is reluctant to provide instruction on its processes and software to other consultants with whom it may compete in the future. Language has been proposed that mandates the development of a peer review plan in Task 18 by the peer reviewer and the contractor.